

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2002-12

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-105-02

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED

Secretary of State
Filing Data

**For Filing
Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [XX] Temporary [] Emergency []

Brief description of action: Petition 2002-12 (LCB R105-02) is a permanent amendment to NAC 444.570 to 444.7499, the solid waste disposal regulations. The amendments add a requirement to conduct periodic topographic surveys and to calculate remaining capacity of landfills. The amendments reduce minimum buffer zone requirements for composting facilities and define the type of composting facilities needing to engage the permitting process. The regulations amends the permitting process to allow the inclusion of conditions on permits following the public review and comment period. The regulation provides for more flexibility by allowing remote communities to store waste for more than one week when there is no nuisance or threat to the environment or public health. The minimum design standard for public waste bin facilities for remote communities is increased to allow greater storage. The regulation provides that open burning be allowed for yard waste and clean wood waste in remote communities where no practical alternative exists to dispose of the waste stream. The air pollution control authority has to approve the open burning. Amended is NAC 444.607, 444.628, 444.640, 444.6405, 444.6425, 444.662, 444.66647, 444.667, 444.702, and 444.728.

Authority citation other than 233B: NRS 444.560.

Notice date: August 7, August 12, August 14, August 20, August 21, August 27, 2002

Hearing date: September 11, 2002

Date of Adoption of Agency: September 11, 2002

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 2002-12 LCB File R-105-02
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 444. This regulation deals with amendments to the solid waste management and composting programs.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2002-12 (LCB File R-105-02), was noticed on August 7, August 12, August 14, August 20, August 21, August 27, 2002 as a permanent regulation in the Las Vegas Review Journal and the Reno-Gazette-Journal newspapers. Regulatory workshops were conducted by the Nevada Division of Environmental Protection's Bureau of Waste Management on June 14, 2002 in Carson City and June 18, 2002 in Elko and June 20, 2002 in Las Vegas.

The regulation was adopted by the State Environmental Commission as a permanent regulation on September 11, 2002. There was no public comment and two written comments, one from the citizens of Midas, Nevada supporting the regulation (Exhibit 5) and comments from Humboldt County Commissioners (exhibit 3), commented upon a definition of "remote community" and more flexibility in conducting a survey of the landfill. These were received by the Commission during permanent adoption. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-9308, or writing to the Commission at 333 W. Nye Lane, Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	45
(b)	Testified at each hearing:	0
(c)	Submitted to the agency written comments:	2

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. No written or oral comment was received from affected businesses See above statement for dates of the public notices and public workshops. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-9308 or writing to the Commission at 333 W. Nye Lane, Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted by the State Environmental Commission on September 11, 2002 with amendments (Exhibit 7).

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

The regulations will affect remote communities by significantly decreasing per capita solid waste hauling costs both short term and long term. The storage bin facilities will have no significant short or long-term economic effects. The compost regulations will reduce the cost both short and long-term real property costs for regulated compost facilities. Landfill survey costs will be a new expense, however the information gained will promote efficient facility operations and long-term cost savings.

(b) Estimated economic effect on the public;

The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public. Long-term economic effects on the public are most like beneficial.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The implementation of the adopted regulation is not expected to result in any additional cost by the Division of Environmental Protection.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulation is no more restrictive or stringent than federal requirements.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulations do not provide a new fee nor increase an existing fee.

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FILED PERMANENT REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

LCB File No. R105-02 SEC Petition 2002-12

Effective October 18, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-11, NRS 444.560.

Section 1. NAC 444.607 is hereby amended to read as follows:

444.607 “Public *waste* storage bin facility” means a facility that provides one or more portable waste containers which are used for the collection of solid waste for transport to a solid waste disposal site. The term does not include residential or commercial waste containers that are located on or near a site of waste generation.

Sec. 2. NAC 444.628 is hereby amended to read as follows:

444.628 “Transfer station” means a solid waste processing site where solid waste is transferred from one vehicle to another vehicle or storage device for temporary storage until transferred to a disposal site. Some processing may be included therein. The term does not include public *waste* storage bin facilities.

Sec. 3. NAC 444.640 is hereby amended to read as follows:

444.640 1. ~~{Open}~~ ***Except as otherwise provided in this section, open*** burning of solid wastes at a disposal site, transfer station or other facility which handles solid waste is prohibited.

2. The solid waste management authority may approve open burning of yard waste and other untreated wood waste at facilities that serve remote communities if:

(a) There is no other practicable alternative for the management of the waste; and

(b) The burning is done in accordance with NAC 445B.22067.

3. The provisions of NAC 444.570 to 444.7499, inclusive, do not prevent the disposal of animal carcasses by burning if such burning is done in accordance with NAC ~~{445B.381,}~~ ***445B.22067***, except that such burning is not allowed at municipal solid waste landfill units and Class III sites covered by those provisions.

Sec. 4. NAC 444.6405 is hereby amended to read as follows:

444.6405 1. Except as otherwise provided in subsection 2, the owner or operator of a disposal site must obtain a permit to operate the site from the appropriate solid waste management authority.

2. The following sites are exempt from the provisions of subsection 1:

- (a) Composting bins which are operated at a personal residence for personal use; and
- (b) Municipal composting operations for yard wastes.

3. The owner or operator of a proposed disposal site ~~[shall]~~ **must** obtain a permit before the construction or operation of that site. An application for a permit must be submitted at least 180 days before the anticipated start of construction, to allow sufficient time for the review and issuance of the permit.

~~[4. A disposal site for which a notice of intent to close the site by November 8, 1993, or continue operations after November 8, 1993, has not been submitted to the solid waste management authority shall be deemed to be an open dump. Class I sites which are to continue operations after November 8, 1993, must have a permit issued by the solid waste management authority by October 9, 1996. Class II sites which are to continue operations after November 8, 1993, must have a permit issued by the solid waste management authority by October 9, 1999.]~~

~~—5. Interim approval shall be deemed to be granted to an owner or operator who submits a notice of intent to continue operations after November 8, 1993, to the solid waste management authority. The owner or operator to whom interim approval is granted must operate and maintain the site in compliance with all applicable statutes and regulations to maintain that approval.~~

~~—6. The solid waste management authority may revoke or suspend the interim approval granted pursuant to this section if the owner or operator fails to provide to the authority any documents or other information relating to the application for a permit requested by the authority:~~

~~—(a) For a class I site, within 1 year after such a request is made or not later than October 9, 1996, whichever is earlier; or~~

~~—(b) For a class II site, within 1 year after such a request is made or not later than October 9, 1999, whichever is earlier.~~

~~—7. The interim approval is effective until the site is closed pursuant to subsection 4, the interim approval is revoked or suspended, or a permit is issued for the site.]~~

Sec. 5. NAC 444.6425 is hereby amended to read as follows:

444.6425 **1.** Within ~~{15}~~ **30** days after the end of the period for public review, the solid waste management authority shall:

~~{1-}~~ **(a)** Issue a permit to operate a disposal site; or

~~{2-}~~ **(b)** Deny the application and send written notice to the applicant which details the reasons why the application is being denied. The written notice must set forth the time and procedure by which the applicant may appeal the decision of the solid waste management authority.

2. The solid waste management authority may modify or place conditions on a permit issued pursuant to this section based on public comments received concerning the permit.

Sec. 6. NAC 444.662 is hereby amended to read as follows:

444.662 **1.** The owner or occupant, or both, of any premises, business establishment or industry are responsible for the safe and sanitary storage of all solid waste accumulated at the premise until it is removed.

2. All garbage and similar putrescible waste ~~{must}~~ :

(a) Must be stored in:

~~{(a)}~~ **(1)** Durable, nonabsorbent, watertight and easily cleanable containers that are resistant to corrosion and rodents. The covers of such containers must prevent the entry of flies.

~~{(b)}~~ **(2)** Other types of containers acceptable to the solid waste management authority which conform to the intent of NAC 444.660 to 444.666, inclusive.

(b) Except as otherwise provided in subsection 5, must not be stored for more than 1 week before collection.

3. The size and allowable weight of the container ~~{is}~~ **must be** determined by the collection agency, subject to the approval of the solid waste management authority.

4. If garbage and similar putrescible wastes are stored in combination with nonputrescible wastes, containers for the storage of the mixture must meet the requirements for garbage storage. ~~{These wastes must not be stored for more than 1 week before collection.}~~

5. The solid waste management authority may approve the storage of garbage and similar putrescible wastes for more than 1 week before collection in a remote community if the municipality in whose jurisdiction the storage occurs demonstrates that an alternative minimum collection frequency will not result in increased litter or odors, the harboring of vectors, the storage of excess waste outside of containers, or any

other health hazard, public nuisance or impairment to the environment. The solid waste management authority may revoke its approval of an alternative minimum collection frequency.

6. Medical wastes must be stored in watertight, tightly covered and clearly labeled containers that are resistant to corrosion and are in a safe location, inaccessible to the public. In addition, medical wastes must be stored in cleanable containers with liners *or in a manner* approved by the solid waste management authority. Medical wastes must not be deposited in containers with other solid wastes. Medical wastes must be transported separately from other solid wastes to an approved disposal site and handled in accordance with a method approved by the solid waste management authority.

~~{6-}~~ 7. Bulky wastes or other nonputrescible wastes unsuitable for storage containers must be stored in a manner that does not cause a nuisance.

Sec. 7. NAC 444.66647 is hereby amended to read as follows:

444.66647 1. The owner of a public *waste* storage bin facility shall notify the solid waste management authority in writing not more than 30 days after establishing the facility. The notification must include, without limitation:

- (a) The location of the facility;
- (b) The owner of the facility;
- (c) The name and phone number of the authorized agent of the owner;
- (d) The capacity of the facility in cubic yards;
- (e) The types of solid waste ~~{it}~~ *the facility* receives; and
- (f) The population and area to be served by the facility.

2. ~~{Storage}~~ *Waste storage* bins may have a combined capacity of not more than ~~{100}~~ *160* cubic yards and must be constructed of durable, watertight materials with a lid or screen on top that prevents ~~{access by disease vectors and}~~ the loss of materials during transport. Storage of solid waste outside of the *waste* storage bins is prohibited unless approved by the solid waste management authority.

3. ~~{If}~~ *Except as otherwise provided in this subsection, if* garbage and similar putrescible waste is stored in combination with nonputrescible waste, the wastes must not be stored at the facility for more than 1 week. *The solid waste management authority may approve the storage of such waste for more than 1 week before collection in a remote community if the municipality in whose jurisdiction the storage occurs demonstrates that an alternative minimum collection frequency will not result in increased litter or odors, the harboring of vectors, the storage of excess waste outside of containers, or any other health hazard, public nuisance or*

impairment to the environment. The solid waste management authority may revoke its approval of an alternative minimum collection frequency.

4. The owner of a public *waste* storage bin facility shall:

(a) ~~{Set up directional signs in the community so that the facility can be easily located;~~

~~—(b)}~~ Provide access to the facility by an all-weather road;

~~{(c)}~~ ***(b) Construct the facility in a manner that allows the public to deposit waste materials conveniently and safely in the public waste storage bin;***

(c) Service the facility as often as is necessary to ensure that there is adequate storage capacity at all times;

(d) Provide for the inspection of the site at least weekly and collect all scattered papers and other lightweight debris;

(e) Use fences and other appurtenances to prevent the scattering of papers and other lightweight debris;
and

~~{(d)}~~ ***(f) Comply with the requirements regarding signs set forth in NAC 444.690.***

5. At final closure, the owner or operator shall remove any remaining wastes to a proper facility and shall remove all *waste* storage bins.

Sec. 8. NAC 444.670 is hereby amended to read as follows:

444.670 1. A compost plant must not be established until the site location, ~~{facilities}~~ ***design of the plant*** and proposed method of operation have been approved by the solid waste management authority~~{}~~ ***and a permit to operate the compost plant has been issued in accordance with the requirements of NAC 444.6405 to 444.6435, inclusive. An application for such a permit must include:***

(a) A description of the materials to be composted, including a characterization of the waste sufficient to evaluate the potential for biological or chemical contaminant migration in the event of a release;

(b) A layout diagram of the plant showing property boundaries, fencing, roads, principal processing equipment, storage areas for stockpiles of incoming materials and intermediate and final products;

(c) A description of the equipment and personnel necessary to operate the plant;

(d) A description of the process, with a schematic diagram, that shows loading and unloading areas and traffic flow routing;

(e) The maximum inventory, by volume, of feed stocks, intermediate materials and products;

(f) Proposed product specifications and a program to verify conformance with the specifications;

(g) A program for monitoring the parameters of the process, including moisture content and temperature;

(h) A description of the final use for the compost or the available markets for the compost;
(i) Provisions for fire prevention and control;
(j) Provisions for odor prevention and control;
(k) Provisions for the control of surface water run on and runoff;
(l) Provisions for litter prevention and control;
(m) Contingency plans to be followed in the event of emergencies and unforeseen circumstances that may occur at the facility. The plans must provide, at a minimum, for an organized and coordinated course of action to be taken and address the following situations:

- (1) A fire at the facility;*
- (2) A release of hazardous or toxic materials; and*
- (3) The shutdown of the facility for any reason; and*

(n) Provisions for proper disposal of by-products.

2. Any person or municipality which maintains or operates a ~~composting~~ **compost** plant shall maintain and operate the site in conformance with the following standards:

(a) ~~[A]~~ ***If the compost plant accepts municipal solid waste and is not fully contained within a building, a buffer zone must be maintained of at least 500 feet from the adjoining property and 1,000 feet from any public roads.***

(b) Incoming solid waste must be confined to as small an area as practicable. At the conclusion of each day of operation, all windblown material resulting from the operation must be collected and returned to the area.

(c) Materials resulting from composting and offered for sale:

(1) Must ~~contain no pathogenic organisms;~~ ***meet the requirements relating to the maximum allowable density of fecal coliform or Salmonella sp. bacteria for Class A sewage sludge set forth in 40 C.F.R. § 503.32(a);***

(2) Must not reheat upon standing;

(3) Must be innocuous; and

(4) Must contain no sharp particles which could cause injury to persons handling the compost.

(d) By-products removed during the processing must be handled ~~and disposed of~~ in a sanitary and nuisance-free manner~~[-]~~ ***and disposed of at a facility approved by the solid waste management authority.***

3. ***A compost plant shall comply with the plans for the design and operation of the facility approved by the solid waste management authority. A compost plant shall not:***

(a) Contribute to the pollution of the air or waters of this state;

(b) Cause an impairment of the environment;

(c) Cause a health or safety hazard to employees of the facility or the general public; or

(d) Cause a public nuisance.

4. The solid waste management authority may suspend or revoke a permit to operate a compost plant if the owner or operator of the facility fails to comply with the provisions of NAC 444.570 to 444.7499, inclusive.

Sec. 9. NAC 444.702 is hereby amended to read as follows:

444.702 1. Scavenging at a Class I site is prohibited.

2. Salvaging is prohibited at the working face of a Class I site.

3. ~~{The area}~~ *A Class I site* must be inspected daily and all scattered paper and other lightweight debris returned to the fill area and covered.

4. The operator of a Class I site shall establish provisions concerning weighing or otherwise adequately measuring and recording all solid waste delivered to the site.

5. The operation of a Class I site must be approved by the solid waste management authority.

6. The operator of a Class I site shall submit quarterly to the division a report of the solid waste received at the site. The report must be submitted on a form prescribed by the division.

7. The operator of a Class I site shall, on or before January 1, 2004, and at least once every 5 years thereafter until the site is closed in accordance with NAC 444.6891, 444.6892 and 444.6893, conduct a topographic survey, or other volumetric survey approved by the solid waste management authority, of the site and submit a report to the solid waste management authority. Except as otherwise provided in this subsection, each such report must be submitted no later than 5 years after the date on which the immediately preceding report was submitted. Each report must:

(a) Be signed by a professional engineer registered in this state;

(b) Be at a scale of not more than 200 feet to the inch, including contour intervals of not more than 5 feet;

(c) Show the current topography of the site;

(d) Indicate the remaining volume and disposal capacity of the site;

(e) Indicate the volume used and waste disposed of since the original report of design; and

(f) Calculate the remaining life of the site, in years.

Sec. 10. NAC 444.728 is hereby amended to read as follows:

444.728 1. Salvaging is prohibited at the working face of a Class II site. Scavenging is prohibited at a Class II site.

2. ~~{The area}~~ **A Class II site** must be inspected semiweekly and all scattered papers and other lightweight debris returned to the fill area and covered.

3. The operator of a Class II site shall establish provisions concerning weighing or otherwise adequately measuring and recording all solid waste delivered to the site.

4. The operation of a Class II site must be approved by the solid waste management authority.

5. The operator of a Class II site shall:

(a) Comply with the requirements relating to the maintenance and operation of the site set forth in 40 C.F.R. Parts 258.20 to 258.29, inclusive, effective October 9, 1997. ~~It and~~

(b) Submit semiannually to the division a report of the solid waste received at the site. The report must be submitted on a form prescribed by the division.

(c) On or before January 1, 2004, and at least once every 5 years thereafter until the site is closed in accordance with NAC 444.6891, 444.6892 and 444.6893, conduct a topographic survey, or other volumetric survey approved by the solid waste management authority, of the site and submit a report to the solid waste management authority. Except as otherwise provided in this paragraph, each such report must be submitted no later than 5 years after the date on which the immediately preceding report was submitted. Each report must:

(1) Be signed by a professional engineer registered in this state;

(2) Be at a scale of not more than 200 feet to the inch, including contour intervals of not more than 5 feet;

(3) Show the current topography of the site;

(4) Indicate the remaining volume and disposal capacity of the site;

(5) Indicate the volume used and waste disposed of since the original report of design; and

(6) Calculate the remaining life of the site, in years.

Sec 11. Notwithstanding any provision of subsection 4 of NAC 444.66647 to the contrary, the owner or operator of a public waste storage bin facility that is in operation on October 18, 2002, shall comply with the provisions of subsection 4 of NAC 444.66647 not later than October 18, 2003.